

AG Contract No. KR98 2156TRN
ADOT ECS File JPA 98-167
Project No. STP-SAH-0(1)P
TRACS No. 0000PMSAH SS411 01C
Section: LaCanada Drive

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF SAHUARITA

THIS AGREEMENT is entered into 7 January, 1998, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF SAHUARITA, acting by and through its MAYOR and TOWN COUNCIL (the "Town").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 and 28-334 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town.

3. Congress has authorized appropriations for, but not limited to, the construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings.

=====

NO. 22913
Filed with the Secretary of State
Date Filed: 01/07/99
Petey Bayless
Secretary of State

By: Vicky L. Graenewold

4. Such project within the boundary of the Town has been selected by the Town; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the Town by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The Town, in order to obtain federal funds for the construction of the project, is willing to provide the State with the Town funds to match federal funds in the ratio required or as finally fixed and determined by FHWA.

7. The work embraced in this agreement and the estimated cost are as follows: Grade, drain, box culvert and roadway improvements.

Estimated Project Cost (includes 15% CE)	\$ 442,567.00
Five percent (5%) surcharge	\$ 19,242.00
Federal Aid Funds @ 94.3%	\$ 435,486.00
Total Town Funds	\$ 26,323.00

* This includes a 5% surcharge on the total cost as per Local Government Engineer memo of April 1994.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The State shall submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.

a. If such project is approved for construction by FHWA and the funds are available for construction of the project, the State with the aid and consent of FHWA and the Town will proceed to advertise for, receive and open bids, and subject to the concurrence of FHWA and the Town, award the contract, enter into a contract with a firm to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the Standard Specifications for Road and Bridge Construction of the Highways Division, Arizona Department of Transportation. Further, the State will enter into a Project Agreement with FHWA covering the work embraced in said construction contract and will request the maximum federal funds available.

b. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the State shall not be obligated to incur any expenditure in excess of the amount of the Town's deposit unless and until so authorized in writing by the Town.

2. Prior to the solicitation of bids, the Town shall deposit funds with the State in the amount determined by the State to be necessary to match federal funds in the ratio required. Upon completion of the construction contract, the State shall return to the Town any part of the funds deposited by the Town remaining after Town's pro rata share of the cost, as finally fixed and determined by FHWA, has been paid.

3. The Town shall acquire, without cost to the State, the necessary right-of-way and hereby certifies that all necessary rights-of-way have been or will be acquired.

4. The Town shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom, prior to the start of construction.

5. The Town shall not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the Town shall take all necessary steps to remove or prevent any such encroachment or use; failing in which the State shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by the Town.

6. Upon completion of construction, the Town shall provide for, at its own cost and as an annual item in its budget, proper maintenance, including, but not limited to, signs, and markings necessary for the purpose of regulating, warning and guiding traffic, all in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. The Town assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the Town and that the Town hereby agrees, to the extent permitted by law, to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and attorneys' fees.

2. The cost of the design, construction and construction engineering work covered by this agreement is to be borne by FHWA and the Town, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, the Town agrees to furnish and provide State with Town funds in an amount equal to the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall remain in force and effect until completion of the work herein embraced; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

4. This agreement shall become effective upon filing with the Secretary of State.

5. This agreement shall be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this agreement.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation
Joint Project Administration
205 S. 17th Avenue - 616E
Phoenix, AZ 85007

Town of Sahuarita
Town Manager
Box 879
Sahuarita, AZ 85629

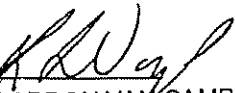
9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.


IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

TOWN OF SAHUARITA

STATE OF ARIZONA

Department of Transportation

By 
GORDON VAN CAMP
Mayor

By 
PETER L. ENO
Contract Administrator

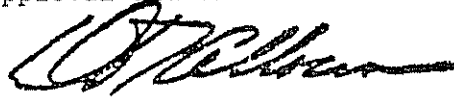
ATTEST:

By 
LEN OLSON
Town Clerk

RESOLUTION

BE IT RESOLVED on this 14th day of September 1998, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the Town of Sahuarita for the purpose of defining responsibilities for constructing improvements to LaCanada Drive.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.

A handwritten signature in black ink, appearing to read "D. Allocco", written over a horizontal line.

DAVID ALLOCCO, Manager
Engineering Technical Group
for Mary E. Peters, Director

SAHUARITA RESOLUTION NO. 1998-39

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SAHUARITA, ARIZONA, APPROVING AND AUTHORIZING EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA, ACTING BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION, AND THE TOWN OF SAHUARITA FOR CONSTRUCTION OF DRAINAGE IMPROVEMENTS TO LA CAÑADA DRIVE.

WHEREAS, pursuant to A.R.S. §§ 28-401 and 28-334, the Town of Sahuarita and the Arizona Department of Transportation desire to enter into this Intergovernmental Agreement to jointly exercise their powers; and

WHEREAS, the Town of Sahuarita requires appropriations for, but not limited to, the construction of drainage improvements to La Cañada Drive; and

WHEREAS, acceptance of this Agreement will allow the State to require that the Town of Sahuarita shall furnish town funds in an amount equal to the difference between the total cost of the work provided for in this Agreement and the amount of federal aid received; and

WHEREAS, acceptance of this Agreement will allow the Town of Sahuarita to acquire rights-of-way, without cost to the State, and the Town shall remove all obstructions or unauthorized encroachments, of whatever nature, prior to the start of construction in addition to providing proper maintenance to regulate traffic; and

WHEREAS, acceptance of this Agreement will allow the State to submit the project to the Federal Highway Administration for approval and put the project out to bid; and

WHEREAS, acceptance of this Agreement will benefit the citizens of the Town of Sahuarita and will be in the Town's best interest.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Sahuarita, Arizona, accepting and authorizing the approval of an Intergovernmental Agreement between the Town of Sahuarita and the Arizona Department of Transportation for appropriations for drainage improvements to La Cañada Drive for a term which shall be determined.

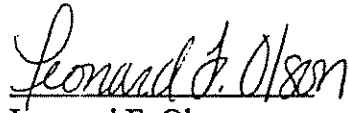
BE IT FURTHER RESOLVED that the Mayor is authorized to execute said Intergovernmental Agreement on behalf of the Town of Sahuarita.

PASSED AND ADOPTED by the Mayor and Council of the Town of Sahuarita, Arizona,
this 10th day of December, 1998.



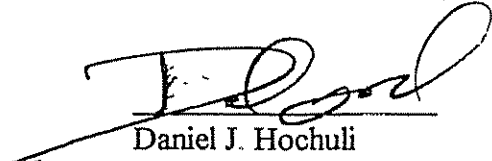
Mayor GORDON VAN CAMP

ATTEST:



Leonard F. Olson
Town Clerk

APPROVED AS TO FORM:




Daniel J. Hochuli
Town Attorney

APPROVAL OF THE SAHUARITA TOWN ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the TOWN OF SAHUARITA and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona.

DATED this 10th day of December, 1998.



Town Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-295

GRANT WOODS
ATTORNEY GENERAL

TRN Main: (602) 542-1680

Direct: (602) 542-8837

Fax: (602) 542-3646

MAIN PHONE : 542-5025

TELECO: ER : 542-4085

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR98-2156TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATE December 31, 1998.

GRANT WOODS
Attorney General

A handwritten signature in cursive script, reading "James R. Redpath", is written over a horizontal line.

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:et/17702

Enc.